

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

24 HOUR FITNESS USA, INC.,)	
)	
Plaintiff,)	8:11CV417
)	
vs.)	ORDER
)	
JOANN BENAK,)	
)	
Defendant.)	

This matter is before the court *sua sponte*, and pursuant to [NECivR 41.2](#), which states in pertinent part: “At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution.” Further, [Fed. R. Civ. P. 4\(m\)](#) establishes a 120-day time limit for service of process on the defendant in a civil case, absent a showing of good cause.

In this case the complaint was filed on December 8, 2011. **See** [Filing No. 1](#). The plaintiff has initiated no other action in this matter. There is no evidence in the record the plaintiff has sought summonses or served process. The deadline for service of process expired on or about April 6, 2012. The defendant has not made an appearance. It remains the plaintiff’s duty to go forward in prosecuting the case. Under the circumstances, the plaintiff must make a showing of good cause for the failure of timely service or the action must be dismissed against the defendant. Upon consideration,

IT IS ORDERED:

The plaintiff has until the close of business **on May 21, 2012**, to file evidence of service or show cause why this case should not be dismissed for failure to prosecute the defendant.

Dated this 7th day of May, 2012.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge